



Military Personnel Instructions

- **Taxation of military compensation and benefits**
- **Nonresident military personnel with Utah non-military income**
- **Filing requirements and deadlines**



Utah State Tax Commission

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If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.

Contents

Introduction.....	1
Utah Treatment	1
Residency Issues	1
Utah Resident or Nonresident	2
When a Non-military Spouse Earns Income in Utah	2
When One Spouse is a Utah Resident and the Other is a Nonresident	2
Death Gratuity Tax Refunds.....	2
National Guard and Reserves Active Duty Military Pay.....	2
Nonresident Military Personnel with Utah Non-military Income.....	2
General Information	2
Single Military Personnel Special Calculation.....	3
Married Military Personnel Special Calculation	3
Examples	3
Example for Single Military Personnel	3
Example for Married Military Personnel	4
Filing Returns	4
Where To File	4
When To File	4
Extensions	4
Service that Qualifies for an Extension of Deadline	4
Signing Returns	5
Where Do I Get Help?	5

Introduction

Federal tax laws provide some special benefits for active members of the U.S. Armed Forces, including those serving in combat zones.

For federal tax purposes, the U.S. Armed Forces includes officers and enlisted personnel in all regular and reserve units controlled by the Secretaries of Defense, the Army, Navy and Air Force. The Coast Guard is also included, but not the U.S. Merchant Marine or the American Red Cross. However, these and other support personnel may qualify for certain tax deadline extensions because of their service in a combat zone.

National Guard members who are called to active service by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days in response to a national emergency declared by the President and supported by federal funds are also qualified for these benefits.

See the IRS Publication 3 on the IRS web site at www.irs.gov for additional federal tax information regarding members of the U.S. Armed Forces.

Utah Treatment

Utah treats resident military pay and allowances the same as the IRS. If income is included in federal adjusted gross income, it is automatically included in Utah income. Conversely, if income is excluded from federal taxation, it is also excluded for Utah purposes.

A special calculation is required when a Utah nonresident military member (or their spouse if filing a joint Utah return) has non-military income from a Utah source. See "Non-resident Military Personnel with Utah Non-military Income" below.

Residency Issues

A military member's domicile (home of record) does not change when they are stationed in another state on military orders.

Utah Resident or Nonresident

Utah residents who enter military service do not lose their Utah residency solely by being absent from Utah due to military orders. Likewise, residents of other states who are in Utah solely due to military orders are considered nonresidents while stationed in Utah.

Utah residents are required to file Utah income tax returns and report all income received during the period of Utah residency regardless of the source of that income. If income tax is paid to another state on nonmilitary income earned in that state, a credit for the tax paid to the other state may be allowed on the Utah return. (See Utah Form TC-40A.)

Military pay of nonresidents who are stationed in Utah solely due to their military orders is not subject to Utah income tax. However, nonresident military personnel or members of their family who are residing in Utah and earn income from Utah sources – other than active military service pay – are required to file a return and pay any Utah tax due.

When a Non-military Spouse Earns Income in Utah

The spouse of a person in active duty military service is generally considered, for Utah tax purposes, to have the military spouse's domicile and is subject to the same Utah income tax laws and rules that apply to the military person.

The following spouse income is taxable by the state of Utah:

- Any income of a resident spouse;
- Any income earned from Utah sources by a nonresident spouse, other than active duty military pay.
- Any income earned by a part-year resident spouse during the period of residency.

When One Spouse is a Utah Resident and the Other is a Nonresident

When one spouse is a full-year Utah resident and the other is a full-year nonresident, they may file their Utah returns using the special calculation outlined under "Married Military Personnel Special Calculation" below. If either spouse is a part-year resident, the couple cannot file using this special calculation.

The following procedures should be used when one spouse is a full-year resident and the other spouse is a nonresident and they elect to file using the special calculation:

1. If you file separate federal returns, you must file separate Utah returns.
2. If you file a joint federal return, you may choose to either file:
 - a. A joint Utah return – you must include all income of both spouses as reported on your federal return; or
 - b. Using the special calculation – file separate returns for Utah. (See "Married Military Personnel Special Calculation" below for the special calculation.)

Death Gratuity Tax Refunds

Under the federal Military Family Tax Relief Act of 2003, the death gratuity paid to a survivor of a member of the Armed Forces who died after September 10, 2001, was increased from \$6,000 (\$3,000 of which was nontaxable), to \$12,000 (which is fully nontaxable).

If you have already filed your tax returns for 2001, 2002 or 2003 showing a death gratuity of \$6,000 and paid tax on \$3,000 of the gratuity, you may be entitled to a refund. First, complete and file a federal amended return, Form 1040X, *Amended U.S. Individual Income Tax Return*. Then prepare an amended Utah return, Form TC-40, for the tax year you are amending. Generally, you must file an amended return or claim for refund within three years from the date you filed your original return, or two years from the date you paid the tax, whichever is later.

See specific instructions for filing amended Utah returns in the instruction booklet for the applicable year, or the instructions for amended returns on the Tax Commission website at incometax.utah.gov.

National Guard and Reserves Active Duty Military Pay

For tax years beginning on or after Jan. 1, 2004, but before Jan. 1, 2005, Utah law allows a Utah resident a deduction for active duty military pay that was included in federal adjusted gross income for the following military personnel:

- For active duty in accordance with orders received under Title 10 USC sections 12301, 12302, 12303 or 12304 – members of The Army Reserve, The Naval Reserve, The Air Force Reserve, The Marine Corps Reserve, The Coast Guard Reserve, The Army National Guard of the United States, and The Air Force National Guard of the United States, or
- For service under a call to active service responding to a national emergency in accordance with an order received under Title 32 USC section 502(f) for a period of more than 30 consecutive days – members of The Army National Guard of the United States and The Air National Guard of the United States.

The deduction applies only to Utah residents who have qualified active duty military pay; it does not apply for military pensions or survivor benefits.

The deduction is taken by entering the qualified active duty military pay, which was included in federal adjusted gross income, on the Utah TC-40, line 13. Use code "83" to identify this deduction.

Note: For years beginning on or after Jan. 1, 2005, this deduction no longer applies and National Guard and Reserves active duty military pay will be taxable in Utah.

Nonresident Military Personnel with Utah Non-military Income

A special calculation must be made by qualified nonresident military personnel to compute the Utah income tax on their non-military Utah income. This income could be from separate earnings from non-military employment, or from a non-military spouse's earnings. The following instructions and examples show how to do this calculation.

General Information

Federal law prohibits states from considering the military income of a nonresident service member when determining the individual income tax for either the service member or the service member's spouse on a joint return.

To ensure nonresident military service members receive the benefit of this provision of the law, nonresident active duty military service members (or their spouse if filing a joint return) stationed in Utah who have Utah income from sources other than military pay may use these special instructions to calculate their Utah tax.

Single Military Personnel Special Calculation

Military personnel who are not married should calculate their Utah tax as follows:

1. Follow the line-by-line instructions for completing the Utah TC-40.
2. Deduct any active duty military pay that was included in federal adjusted gross income as an "Other Deduction" on the Utah TC-40, line 13. Use **code "82"** for this deduction.
3. Calculate the Utah tax on line 16b.
4. Calculate the Utah ratio (for line 17) on form TC-40C with the following adjustments.
 - a. Enter the active duty military income in column B, line 29. This adjustment deducts the active duty pay from the total federal income and is necessary to properly calculate the Utah tax. (Note: This adjustment will

cause the federal adjusted gross income shown on line 4 of the TC-40 to be higher than the column b, federal income, shown on the TC-40C.)

- b. Bring over the totals from line 31 of form TC-40C to line 17 of the TC-40: column A to box a on line 17, and column B to box b.
 - c. Calculate the ratio of Utah income (box a) to total income (box b) to four decimal places and enter the result in box c on line 17.
5. Complete the remainder of the Utah return per TC-40 instructions (see the following example).

Married Military Personnel Special Calculation

If one spouse is a full-year Utah resident and the other is a full-year nonresident they may choose to use "Special Instructions for Filing Separate Returns" in Utah Publication 49. If they qualify to use those Special Instructions, they should make the above adjustments first to the separate return of the active duty military spouse, then follow the calculation instructions in Publication 49. (See the following example.)

Examples

Example for Single Military Personnel

James is a single nonresident taxpayer in active duty military service stationed in Utah. In addition to his active duty military pay of \$18,000, James has non-military pay from a Utah part-time job of an additional \$12,500. James is required to file a nonresident Utah return. His Utah nonresident return is calculated as follows:

Federal Return	Utah Return Form 1040EZ	Form TC-40
Federal adjusted gross income	\$30,500	\$30,500
State income tax deducted as an itemized deduction		0 0
Other additions to income	0	0
Standard or itemized deductions	(4,850)	(4,850)
Personal exemption (75% of federal)	(3,100)	(2,325) *
Federal tax (state deduction 1/2 of federal)	(3,029)	(1,515)
Other Utah deductions – code 82, military pay		(18,000)
Utah taxable income		3,810
Utah tax calculated on line 16b		151
Ratio for line 17:		
Utah total income	\$12,500	
Federal total income	12,500 **	
Ratio	1.000	
Utah tax calculated on line 17 (line 16b times ratio)		151

* State personal and dependent exemption amount for 2004 is \$2,325 (75% of federal exemption amount of \$3,100).

** The federal total income figure used in the ratio calculation is \$30,500 federal adjusted gross income less \$18,000 military pay entered on line 29, column B of TC-40C.

Example for Married Military Personnel

Terry is a married active duty military member whose military home of record is Arizona. He was transferred to Utah's Hill Air Force Base in March of 2004. He and his wife had federal adjusted gross income on their federal return of \$55,600. Terry had active duty military pay of \$24,875, and his spouse had non-military income of \$4,700 from her previous employment in Arizona and \$25,775 from her non-military job in Utah, plus \$250 of interest earned from their bank in Arizona. They are required to file a joint nonresident Utah return. Their joint Utah nonresident return is calculated as follows:

Federal Return	Utah Return	
	Form 1040EZ	Form TC-40
Federal adjusted gross income	\$55,600	\$55,600
State income tax deducted as an itemized deduction	0	0
Other additions to income	0	0
Standard or itemized deductions	(9,700)	(9,700)
Terry's personal exemption	(3,100)	(2,325) *
Spouse's personal exemption	(3,100)	(2,325) *
Federal tax (state deduction 1/2 of federal)	(5,244)	(2,622)
Other deductions – code 82, military pay		(24,875)
Utah taxable income		13,753
Utah tax calculated on line 16b		721
Ratio for line 17:		
Utah total income	\$25,775	
Federal total income	30,725 **	
Ratio	.8389	
Utah tax calculated on line 17 (line 16b times ratio)		605

* State personal and dependent exemption amount for 2004 is \$2,325 (75% of federal exemption amount of \$3,100).

** The federal total income figure used in the ratio calculation is \$55,600 federal adjusted gross income less \$24,875 military pay entered on line 29, column B of TC-40C.

The deductibility of your active duty military pay, as explained above, may apply to a previous year. Instructions for prior years are available on our web page at www.incometax.utah.gov; consult your tax advisor.



Filing Returns

Where To File

Mail or deliver your completed income tax return to the address below:

Refund Return

Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134-0260

Payments and All Other Returns

Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134-0266

When To File

You must file your return and pay any income tax due:

- By April 15, 2005, if you file on a calendar year basis (tax year ends Dec. 31, 2004); or
- By the 15th day of the fourth month following the close of the fiscal year, if you file on a fiscal year basis.

All Utah income taxes for the year 2004 must be paid by the due date. If your return is not filed on time, you may be subject to penalties and interest. However, see the extension instructions following.

Extensions

You are automatically allowed an extension of up to six months to file your return without filing an extension form. However, there is NO extension of time to pay your taxes – only an extension of time to file your tax return. All extension returns must be filed by Oct. 17, 2005. (See exception for military personnel below.)

A Utah resident in military service, stationed outside the United States, will be granted a waiver of penalty for late filing if the return is filed on or before the 15th day of the fourth month after the taxpayer's return to the United States or his discharge date, whichever is earlier. Interest is still due on any unpaid amounts from the original due date until the tax is paid. For information on combat zone relief, click on the website at tax.utah.gov/armedforces.html.

Service that Qualifies for an Extension of Deadline

Military personnel serving in a combat zone are eligible to have collection or audit actions suspended until 180 days after the military person has left the zone.

Taxpayers qualifying for such combat zone relief may notify the Tax Commission directly of their status through a special e-mail address: combatzone@utah.gov. They should provide their name, stateside address, date of birth, and date of deployment to the combat zone. The taxpayer, spouse, or an authorized agent or representative may make this notification.

The Tax Commission cannot provide tax account information by e-mail. Therefore, we will send responses to any questions by regular mail to the address we have on record within two business days. We may provide general answers to questions regarding the status of individual combat zone updates via e-mail.

Signing Returns

You, and your spouse if filing a joint return, must sign the return. You may also authorize someone to sign for you by granting a power of attorney.

Utah rules relating to filing a return for a military spouse who is serving in a combat zone, a qualified hazardous duty area, in missing status, incapacitated, or died during the year follow the federal rules. See IRS Publication 3 for details.

Where Do I Get Help?

If you have additional questions regarding the Utah treatment of military personnel, please contact us at the address or telephone numbers below.

Utah State Tax Commission
210 N 1950 W
Salt Lake City UT 84134

(801) 297-7705 in the Salt Lake area, or

(800) 662-4335, extension 7705 if calling from outside the Salt Lake area.

You may submit your questions by fax at (801) 297-2020, or you may email us at **taxmaster@utah.gov**.

You can also obtain information on federal treatment at:

- Soldiers' and Sailors' Civil Relief Act of 1940, United States Code, Title 50, Section 573.
- Utah Service Members' Civil Relief Act, Utah Code §39-7.